

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

HARRY ELDRIDGE,)	No. C 08-2683 JSW (PR)
)	
Petitioner,)	ORDER OF DISMISSAL
)	
vs.)	
)	
RICHARD SUBIA, Warden,)	
)	
Respondent.)	

This is a petition for a writ of habeas corpus brought *pro se* by Petitioner pursuant to 28 U.S.C. § 2254 challenging the constitutional validity of his state conviction. Petitioner's earlier habeas petition was filed under Case No. C:04-cv-0088 JSW (PR). That petition was denied as untimely by this Court on October 3, 2005. Petitioner now files a separate habeas petition raising what appear to be different claims on the than those raised in his earlier petition.


The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") was signed into law on April 24, 1996. Under AEDPA, a district court must dismiss claims presented in a second or successive habeas petition challenging the same conviction and sentence that were raised in a previous petition. *See* 28 U.S.C. § 2244(b)(1); *Babbitt v. Woodford*, 177 F.3d 744, 745-46 (9th Cir. 1999). Additionally, a district court must dismiss any new claims raised in a successive petition unless the petitioner received an order from the court of appeals authorizing the district court to consider the petition. 28 U.S.C. § 2244(b)(3)(A).

1 Here, the instant petition challenges the sentence on the same conviction as the
2 previous petition decided by this Court in 2005. Petitioner has not presented an order
3 from the court of appeals authorizing the Court to consider these claims. Accordingly,
4 the petition for writ of habeas corpus is DISMISSED as a second and successive petition.
5 Petitioner is free to seek such an order from the United States Court of Appeals for the
6 Ninth Circuit. *See*, 28 U.S.C. § 2244(b)(3)(A).

7 The Clerk shall close the file and enter judgment in this matter.

8 IT IS SO ORDERED.

9 DATED: June 3, 2008

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13 JEFFREY S. WHITE
14 United States District Judge
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

HARRY ELDRIDGE,

Plaintiff,

v.

RICHARD SUBIA et al,

Defendant.

Case Number: CV08-02683 JSW


CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on June 3, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Harry Eldridge
H06424
P.O. Box 409060
Ione, CA 95640

Dated: June 3, 2008


Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk